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THE WASHINGTON POST

U.S. Would Alter Court Rules

By Charles R. Babcock
Washington Post Staff Writer

The Justice Department will seek to change court rules in an effort to save its prosecution of a sensitive national security case, a senior official said yesterday.

Phillip B. Heymann, head of the department's criminal division, made his first courtroom appearance to announce that the government will ask the U.S. Court of Appeals to let prosecutors challenge potentially sensitive evidence before it is introduced by the defense at the trial of Robert Berrellez. Berrellez is an official of International Telephone and Telegraph Corp. who is accused of lying to the Senate about his firm's attempt to in-

fluence the 1970 presidential election in Chile.

The case has been complicated by government fears that defense attorneys might uncover still secret Central Intelligence Agency relationships in Latin America and make them public during the trial.

Part of the charge against Berrellez is that CIA officers conspired with him to block a 1973 Senate investigation of ITT-CIA collusion during the election of Salvador Allende.

Prosecutors normally challenge the relevancy of defense evidence after it is presented. But here the government is seeking to make that challenge in advance, Heymann said, to assure that national secrets won't be disclosed.

U.S. District Court Judge Aubrey

Robinson Jr. refused last week to approve a blanket government proposal for setting up such a procedure. He gave prosecutors until yesterday to decide whether to drop the charges against Berrellez.

Heymann said he would make an uncommon "mandamus" appeal to the higher court, instead, in hopes Robinson would be overruled. The department's top prosecutor said persons can't be given "broad immunity" from charges just because their case might involve classified information.

The significance of the government's effort in the Berrellez case extends to other national security cases as well, Heymann said, because the fear of disclosing secrets is a recurring problem in such prosecutions.

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Senator's Kin Dies in Crash

HUNTSVILLE, Ala. (AP)—The brother of Sen. Maryon Allen (D-Ala.) and two other men were killed yesterday when a Jim-Martin-for-Senate campaign plane crashed and exploded near the Huntsville airport.

Authorities said they had not determined the cause of the crash that killed Mrs. Allen's brother, Jim Pittman of Fairhope, along with Mrs. Allen's staffer Ron Webster of Mobile and the pilot, Carl Feldman of Birmingham.

Pittman and Webster were on their way to a news conference on behalf of Conservative Democrats for Martin, who is the Republican nominee for the remaining two years in the term of the late Sen. James B. Allen (D-Ala.). Allen died in June. Mrs. Allen was appointed to fill her husband's seat until a new senator was elected and lost her bid for the Democratic nomination in September.

The plane exploded and burned about 1.5 miles north of the airport near a busy state highway between Huntsville and Decatur. Airport authority Director Ed Mitchell said the pilot of the five-seat Beech Traveler had asked for permission to land.

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It was incorrectly reported yesterday's editions that the National Council of Churches is giving an award to Prime Minister Menachem Begin this week. The Council of Churches

Rules for Secrecy in ITT Case

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A recent Senate Intelligence Com-
mittee study of the tradeoffs in prose-
cuting national security cases recom-
mended that Congress consider pass-
ing a law to formalize the procedure
for advance challenge to defense evi-
dence.

The government also disagreed with
Robinson yesterday on two key points
for judging the relevance of evidence
Berrellez' defense attorney, Patrick A.
Wall, might try to present.

Heymann said the court should re-
ject as irrelevant any defense claims
that government agents encouraged
Berrellez to lie or obstruct the Senate
investigation. The indictment charges
that CIA officer Jonathan Hanke
aided Berrellez and another ITT offi-
cial in preparing false testimony.

Heymann also said the defense
shouldn't be allowed to refer to sensi-
tive material in introducing evidence
about Berrellez's motives for the al-
leged perjury. Robinson said the
jury should be able to hear informa-
tion bearing on the general back-
ground of the defendant's intentions.

Those issues also will be appealed.
Heymann told reporters after the
hearing that it is "likely" the govern-
ment would drop the prosecution if
the appeal is not successful. But a de-
partment spokesman qualified that
statement later, saying it depended on
how decisive the appeals court ruling
is.

Robinson expressed some sympathy
yesterday for the government's con-
cern about some advance determina-

tion of the relevance of defense evi-
dence.

Referring to defense attorney
Wall, the judge at one point said,
"Our problem is he doesn't know what
he knows." Another time he told
Wall: "Their concern is you have
some information that is relevant to
you but you don't know how sensitive
it is."

Under the proposed solution that
Justice now carries to the higher
court, Wall would tell the judge each
time he intended to raise a classified
issue and the prosecutors could argue
against it in a secret meeting.

Robinson seemed to agree with the
procedure but refused to sign such an
order now, before those circumstances
arise.

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NOBODY HOME—Vice President Mondale, stumping in
Billings for Senate bid of Rep. Max Baucus (D-Mont.),

finds no one home. While Baucus writes a note, Mon-
dale quips, "Okay, who told these people I was coming?"

Associated Press

while he was 27 miles out from the
airport and was making a final ap-
proach to the east runway when the
crash occurred.

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